



General Assembly

February Session, 2004

Raised Bill No. 157

LCO No. 1202

01202_____BA_

Referred to Committee on Banks

Introduced by:
(BA)

AN ACT CONCERNING RATE LOCK-IN COMMITMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-705 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this section and sections 36a-706, as amended by this act,
4 and 36a-707, unless the context otherwise requires:

5 (1) "First mortgage loan" means [any loan made to an individual, the
6 proceeds of which are to be used primarily for personal, family or
7 household purposes, which loan is secured by a mortgage upon any
8 interest in one-to-four-family residential, owner-occupied real
9 property located in this state which is not subject to any prior
10 mortgages. The term includes the renewal or refinancing of an existing
11 first mortgage loan] "first mortgage loan", as defined in section 36a-
12 485;

13 (2) "Mortgage broker" means "first mortgage broker", as defined in
14 section 36a-485, who is licensed or required to be licensed under
15 sections 36a-485 to 36a-498, inclusive;

16 [(2)] (3) "Mortgage lender" means [any person engaged in the
17 business of making first mortgage loans, including, but not limited to,
18 banks, out-of-state banks, Connecticut credit unions, federal credit
19 unions, out-of-state credit unions and first mortgage lenders required
20 to be licensed under sections 36a-485 to 36a-498, inclusive] "mortgage
21 lender", as defined in section 36a-485, who is required to be licensed
22 under section 36a-485 to 36a-498a, inclusive, except that the term shall
23 include a bank, out-of-state bank, Connecticut credit union, federal
24 credit union or out-of-state credit union; and

25 [(3) "Mortgage rate lock-in"] (4) "Rate lock-in commitment" means
26 [any] a written [agreement with] or electronically transmitted
27 commitment issued to a mortgage applicant [made] or the
28 representative of such applicant by a mortgage lender or [its] the
29 lender's representative, prior to the issuance of a first mortgage loan
30 commitment, [in which the mortgage lender agrees] stating that a
31 particular rate, number of points or variable rate terms will be the rate,
32 number of points, or variable rate terms at which [it] the lender will
33 [lend] make the loan, provided the first mortgage loan is closed
34 [within] by a specified [period] date, and the applicant qualifies for the
35 loan in accordance with the lender's standards of [credit worthiness]
36 creditworthiness.

37 Sec. 2. Section 36a-706 of the general statutes is repealed and the
38 following is substituted in lieu thereof (*Effective from passage*):

39 (a) (1) No mortgage lender shall [enter into a mortgage rate lock-in
40 agreement unless such agreement is in writing] represent to a first
41 mortgage loan applicant or the applicant's representative that the
42 lender will make the loan at a specified rate if the loan is closed within
43 a specified period except by issuing a rate lock-in commitment, and the
44 period for which the terms are locked in is at least as long as the
45 mortgage lender's good faith estimate of the anticipated time from
46 when the mortgage loan application is submitted to the lender to the
47 time when such lender will be ready to close such loan, taking into

48 consideration current market conditions and the processing
49 requirements for the type of first mortgage loan in question. (2) In the
50 event a [mortgage] rate lock-in [agreement is executed] commitment is
51 issued after the mortgage loan application is submitted to the lender,
52 the minimum period for which the terms may be locked in shall be the
53 period determined in accordance with subdivision (1) of this
54 subsection, less the number of days elapsed since the application was
55 submitted to the lender.

56 (b) Any first mortgage loan application for which a [mortgage] rate
57 lock-in [agreement] commitment has been issued shall, unless it is
58 denied in accordance with the mortgage lender's standards of [credit
59 worthiness] creditworthiness, be closed at the terms specified in the
60 [mortgage] rate lock-in [agreement] commitment regardless of whether
61 the specified lock-in period has expired, unless the failure to close the
62 first mortgage loan is the result of the following: (1) The applicant has
63 failed to provide information or documentation required by the lender
64 in a timely manner; (2) the applicant or the applicant's attorney has
65 failed to close the first mortgage loan on or before the date specified by
66 the mortgage lender; (3) the applicant has failed to produce, at or
67 before the closing, all of the documentation specified by the mortgage
68 loan commitment as being required for closing; or (4) the applicant has
69 provided or omitted any information, in the application or
70 subsequently, which upon verification proves to be significantly
71 inaccurate causing the need for review or further investigation by the
72 lender. Information is significantly inaccurate if the information as
73 verified would cause the applicant to be disqualified for the type of
74 first mortgage loan for which the applicant has applied or would cause
75 the secondary market source for which the first mortgage loan is being
76 originated to refuse to purchase the loan.

77 (c) In any case where a first mortgage loan has not been closed, and
78 the application has not been rejected in accordance with the mortgage
79 lender's standards of [credit worthiness] creditworthiness, ninety days
80 after the filing of an application for a first mortgage loan with an initial

81 loan to value ratio of eighty per cent or less or one hundred twenty
 82 days after filing an application for a first mortgage loan with an initial
 83 loan to value ratio of more than eighty per cent, or a first mortgage
 84 loan to be insured or guaranteed by any agency of the federal
 85 government, or any state or municipal government, or any quasi-
 86 governmental agency, whether or not there has been a mortgage rate
 87 lock-in, the applicant shall be entitled upon written request, which
 88 must be made within thirty days of the expiration of the ninety or one
 89 hundred twenty day period, as applicable, to a full refund of all funds
 90 paid to the mortgage lender unless the failure to close was caused by
 91 the applicant for one of the reasons set forth in subdivisions (1) to (4),
 92 inclusive, of subsection (b) of this section or the applicant has
 93 requested a closing date which is later than ninety days after
 94 application for a first mortgage loan with an initial loan to value ratio
 95 of eighty per cent or less or one hundred twenty days for a first
 96 mortgage loan with an initial loan to value ratio of more than eighty
 97 per cent or which is to be insured or guaranteed by any agency of the
 98 federal government, or any state or municipal government, or any
 99 quasi-governmental agency.

100 (d) For the purposes of subsections (b) and (c) of this section:

101 (1) An applicant shall be deemed to have provided information or
 102 documentation in a timely manner if such information or
 103 documentation is delivered to the mortgage lender or a representative
 104 [thereof] of the mortgage lender within seven calendar days after it is
 105 requested.

106 (2) If a written first mortgage loan commitment issued by a
 107 mortgage lender contains any conditions to be satisfied by the
 108 applicant, the mortgage lender shall specify a closing date no sooner
 109 than seven calendar days after the issuance of [a written] such
 110 commitment unless an earlier date is requested by the applicant.

111 (3) Any new information or documentation requested by the
 112 mortgage lender within seven calendar days before the expiration of

113 any rate lock-in period shall serve to extend the rate lock-in period by
114 seven calendar days from the date of such request. Information or
115 documentation is not new if the request is made necessary by
116 inaccuracies in or omissions from previously provided information, by
117 changes in the information previously provided by the applicant, or
118 questions raised as the result of appraisals, pest inspections, water or
119 sewer tests, engineering reports or reports of a similar nature.

120 (4) If an applicant chooses to change the type or amount of a first
121 mortgage loan for which application is made, or does not qualify for a
122 particular type or amount of first mortgage loan and chooses to apply
123 for another, any rate lock-in [agreement] commitment shall be void
124 and any subsequent rate lock-in shall be evidenced by a new [written
125 agreement] commitment and the application shall be considered a new
126 application for the purposes of sections 36a-705 to 36a-707, inclusive,
127 as amended by this act. [, be considered a new application.]

128 (5) A [mortgage] rate lock-in [agreement] commitment shall not be
129 binding on the mortgage lender in connection with the application for
130 any first mortgage loan which is to be insured or guaranteed by any
131 agency of the federal government or any state or municipal
132 government or quasi-governmental agency in the event the loan
133 program for which the applicant has applied becomes unavailable
134 subsequent to filing an application because of actions taken by that
135 governmental agency. In such cases the applicant shall be entitled to a
136 refund of all funds paid by the applicant which have not actually been
137 expended by the mortgage lender.

138 (6) If the mortgage lender requires that the closing of the first
139 mortgage loan be conducted by a particular attorney or law firm, and
140 that attorney or law firm is not available to conduct the closing before
141 a first mortgage loan commitment period or rate lock-in period
142 expires, the mortgage lender shall extend the first mortgage loan
143 commitment or rate lock-in period until the designated attorney is
144 available to conduct the closing.

145 Sec. 3. (NEW) (*Effective from passage*) No mortgage broker shall
 146 collect a rate lock-in fee, issue a rate lock-in commitment or otherwise
 147 represent to a first mortgage loan applicant or the applicant's
 148 representative that the loan will be made at a specified rate if the loan
 149 is closed within a specified period. Notwithstanding the provisions of
 150 this section, a mortgage broker may provide a mortgage lender's rate
 151 lock-in commitment to a mortgage loan applicant or the applicant's
 152 representative on behalf of such mortgage lender and collect a rate
 153 lock-in fee on the mortgage lender's behalf payable to the mortgage
 154 lender.

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| This act shall take effect as follows: | |
| Section 1 | <i>from passage</i> |
| Sec. 2 | <i>from passage</i> |
| Sec. 3 | <i>from passage</i> |

Statement of Purpose:

To strengthen the mortgage rate lock-in requirements and update them to reflect current industry practices.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]